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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/052,019

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Bijan Treister

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11/01/2006

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EXAMINER

WALSH, JOHN B

ART UNIT

PAPER NUMBER

2151

DATE MAILED: 11/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/052,019	Applicant(s) TREISTER ET AL.	
	Examiner John B. Walsh	Art Unit 2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-6,8-11,13,17,19,22-25,28,29,32,33,36-39 and 41-66 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2,5,6,8-11,13,17,19,28,29,32,33,36-39,42 and 53-62 is/are allowed.
- 6) ☒ Claim(s) 4,22-25,41,43-52 and 63-66 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>5/15/06, 1/23/06</u> | 6) <input checked="" type="checkbox"/> Other: <u>IDS 10/17/05, 10/10/06</u> |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 44 and 45 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,745,034 to Wang et al.

As concerns claim 44, a first communications device comprising: an interface (transceiver; column 1, line 55) that is configured to receive data from a plurality of communications devices and to transmit data to the plurality of communications devices (mobile devices and transceiver stations); and a mechanism that is communicatively coupled to the interface and configured to: perform one or more functions (radio/cell communication; column 1, lines 49-51); prior to a failure of the communications device that prevents the first communication device from performing any of the one or more functions, designating a second communications device from the plurality of communications devices to perform the one or more functions if any of a set of criteria are satisfied (column 2, lines 1-13); communicate with the second communications device to indicate that the second communications device has been designated to perform the one or more functions if any of the one or more handoff criteria are satisfied (column 1, line 65-column 2, line 11); in response to any of the one or more handoff criteria being satisfied, assigning the one or more functions to the second participant (column 1,

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line 60-column 2, line 4); and select, based upon performance of a plurality of communications channels and at least one performance criterion, a first communications channel from the plurality of communications channels (column 2, lines 1-3).

As concerns claim 45, generate first channel identification data (inherent for a channel to have identification data, which may be the frequency of the channel) that identifies the first communications channel; provide the first channel identification data to one or more communications devices from the plurality of communications devices (provided when transmitted); and receive at least a first communication from the one or more communications devices over a second communications channel from the plurality of communications channels, wherein the second communications channel is determined based on the first channel identification data that identifies the first communications channel (column 2, lines 1-13).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4, 22-25, 41, 43, 46-52 and 63-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,745,034 to Wang et al. in view of U.S. Patent No. 6,975,603 to Dicker et al.

As concerns claims 4, 41, 46 and 47, Wang et al. '034 disclose selecting, based upon performance of a plurality of communications channels, a first communications channel (a

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channel used for communication; column 2, lines 1-3) from the plurality of communications channels; generating channel identification data (inherent for a channel to have identification data, which may be the frequency of the channel) that identifies the first communications channel; providing the channel identification data to one or more participants from the plurality of participants (data provided when signal is transmitted); receiving at least a first communication from the one or more participants over the first communications channel (communication sent over the channel) from the plurality of communications channels, wherein the first communications channel is determined based on the channel identification data; assigning, to a first participant from the plurality of participants, one or more functions to be performed by the first participant (serving communication station; col. 3, lines 6-10); prior to a failure of the first participant, designating a second participant (another transceiver; column 1, line 55) from the plurality of participants to perform the one or more functions if any of one or more handoff criteria are satisfied (column 1, line 60-column 2, line 4); an interface (transceiver; column 1, line 55) that is configured to receive data from a plurality of communications devices and to transmit data to the plurality of communications devices (mobile devices and transceiver stations); the second communications device is designated by the first communications device (column 1, line 60-column 2, line 4).

As concerns claims 22, 43 and 48, determining the performance of a first communications channel between a first participant from the plurality of participants and one or more other participants from the plurality of participants (column 2, lines 1-3; column 2, lines 38-42; column 2, line 55); and selecting, based upon the performance of the first communications channel between the first participant and the one or more other participants, a

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second participant (mobile participant) from the one or more other participants; sending at least a first communication from the second participant over the first communication channel (communication from mobile participant); assigning, to a third participant from the plurality of participants, one or more functions to be performed by the third participant (column 2, lines 5-13; another transceiver); and designating a fourth participant from the plurality of participants to perform the one or more functions if any of one or more handoff criteria are satisfied (column 2, lines 5-13; another transceiver).

Wang et al. '034 do not explicitly disclose a frequency hopping protocol.

Dicker et al. '603 teach a frequency hopping protocol (column 6, lines 5-15).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the communication system of Wang et al. '034 with a frequency hopping protocol, as taught by Dicker et al. '603, in order to reduce the amount of interference for communication (Dicker et al. '603:column 6, lines 15-16).

As concerns claims 23, 49 and 64, in response to any of the one or more handoff criteria being satisfied, assigning the one or more functions to the fourth participant; wherein the one or more participants includes the fourth participant; and wherein the first participant is the same participant as the third participant (Wang et al. '034 :column 2, lines 1-13; another transceiver can be a fourth participant, first and third are just labels for the participants, which can be interchanged).

As concerns claims 24, 50 and 65, designate the fourth participant prior to a condition of the third communication of the third communications device that prevents the third

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communications device from performing the one or more functions (column 1, line 55-column 2, line 4; multiple transceivers can be given labels of fourth and third).

As concerns claims 25, 51 and 66, wherein the mechanism designates the fourth communications device prior to a failure of the third communications device (column 1, line 65-column 2, line 11; handoff between fourth and third, done prior to failure or else call/communication session would be dropped).

As concerns claims 52 and 63, Wang et al. '034 do not explicitly disclose a frequency hopping protocol for transmissions over a 2.4GHz band.

Dicker et al. '603 teach a frequency hopping protocol for transmissions over a 2.4 GHz band (column 4, line 19).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the communication system of Wang et al. '034 with a frequency hopping protocol over a 2.4 GHz band, as taught by Dicker et al. '603, in order to provide robust communication while operating regulation guidelines (Dicker et al. '603:column 4, lines 23-25).

Response to Arguments

5. Applicant's arguments with respect to the above claims have been considered but are moot in view of the new ground(s) of rejection. The applicant's arguments in regard to the Election/Restriction have been considered and the Election/Restriction has been withdrawn in view of applicant's remarks.

Allowable Subject Matter

6. Claims 1, 2, 5, 6, 8-11, 13, 17, 19, 28, 29, 32, 33, 36-39, 42 and 53-62 are allowed.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

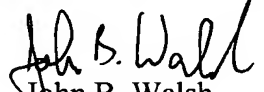
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John B. Walsh whose telephone number is 571-272-7063. The examiner can normally be reached on Monday-Thursday from 7:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on 571-272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


John B. Walsh
Primary Examiner
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